

Assembly Bill No. 1190

Passed the Assembly August 19, 2014

Chief Clerk of the Assembly

Passed the Senate August 18, 2014

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2014, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 25163.3 of the Health and Safety Code, relating to hazardous waste.

LEGISLATIVE COUNSEL'S DIGEST

AB 1190, Bloom. Hazardous waste: transportation.

(1) Existing law, which is part of the hazardous waste control law, requires any person generating hazardous waste that is transported, or submitted for transportation, for offsite handling, treatment, storage, disposal, or any combination thereof, to complete a manifest and be subject to transporter registration requirements. Existing law exempts from these requirements a person who is transporting certain types of hazardous waste and who meets other conditions under a consolidated manifest procedure, including that more than 275 gallons, or 2,500 pounds, whichever is greater, of hazardous waste is transported in any single shipment, except for, among other things, a generator who is a public utility, local publicly owned utility, or municipal utility district and transports in a single shipment up to 1,600 gallons of hazardous wastewater from the dewatering of one or more utility vaults. A violation of the hazardous waste control law is a crime.

This bill would additionally exempt, from that limit for the transportation of hazardous waste in a single shipment, a generator who is a public utility, local publicly owned utility, or municipal utility district transporting up to 5,000 gallons of hazardous wastewater from the dewatering of a utility vault in an emergency situation, as defined. The bill would require a generator transporting hazardous waste pursuant to this exemption to only collect the waste from one utility vault and would prohibit the consolidation of hazardous waste from multiple sites, thereby imposing a state-mandated local program by creating a new crime.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 25163.3 of the Health and Safety Code is amended to read:

25163.3. A person who initially collects hazardous waste at a remote site and transports that hazardous waste to a consolidation site operated by the generator and who complies with the notification requirements of subdivision (d) of Section 25110.10 shall be exempt from the manifest and transporter registration requirements of Sections 25160 and 25163 with regard to the hazardous waste if all of the following conditions are met:

(a) The hazardous waste is a non-RCRA hazardous waste, or the hazardous waste or its transportation is otherwise exempt from, or is not otherwise regulated pursuant to, the federal act.

(b) The conditions and requirements of Section 25121.3 are met.

(c) The regulations adopted by the department pertaining to personnel training requirements for generators are complied with for all personnel handling the hazardous waste during transportation from the remote site to the consolidation site.

(d) The hazardous waste is transported by employees of the generator or by trained contractors under the control of the generator, in vehicles that are under the control of the generator, or by registered hazardous waste transporters. The generator shall assume liability for a spill of hazardous waste being transported under this section by the generator, or a contractor in a vehicle under the control of the generator or contractor. Nothing in this subdivision bars any agreement to insure, hold harmless, or indemnify a party to the agreement for any liability under this section or otherwise bars any cause of action a generator would otherwise have against any other party.

(e) The hazardous waste is not held at any interim location, other than another remote site operated by the same generator, for more than eight hours, unless that holding is required by other provisions of law.

(f) Not more than 275 gallons or 2,500 pounds, whichever is greater, of hazardous waste is transported in any single shipment, except for the following:

(1) A generator who is a public utility, local publicly owned utility, or municipal utility district may transport up to 1,600

gallons of hazardous wastewater from the dewatering of one or more utility vaults, or up to 500 gallons of another liquid hazardous waste in a single shipment.

(2) A generator who is a public utility, local publicly owned utility, or municipal utility district may transport up to 5,000 gallons of mineral oil from a transformer, circuit breakers, or capacitors, owned by the generator, in a single shipment if the oil does not exhibit the characteristic of toxicity pursuant to the test specified in subparagraph (B) of paragraph (2) of subdivision (a) of Section 66261.24 of Title 22 of the California Code of Regulations.

(3) (A) A generator who is a public utility, local publicly owned utility, or municipal utility district may transport up to 5,000 gallons of hazardous wastewater from the dewatering of a utility vault in an emergency situation.

(B) For the purposes of this paragraph “emergency situation” means that utility vault dewatering necessitates immediate response to avoid endangerment to human health, public safety, or the environment, under one or more of the following circumstances:

(i) A vehicle hits a utility pole or stationary utility equipment and knocks down a transformer that spills oil on a public area.

(ii) A spill occurs at or near a vault rendering the contents potentially hazardous and crews need to remove the liquid to decontaminate the vault and to access critical equipment to avoid a service outage.

(iii) A spill occurs at or near a vault that renders the contents potentially hazardous and rainwater flowing into the vault threatens to cause an overflow that will spill into the surrounding area.

(iv) Groundwater intrusion threatens the electrical equipment inside the vault and the reliability of the electrical system.

(v) Heavy rain events, due to the rate of rainfall, threatens the cables and equipment inside the vault.

(C) In transporting hazardous waste pursuant to this paragraph, the generator shall only collect hazardous waste from one utility vault and shall not consolidate hazardous waste from multiple sites.

(g) A shipping paper containing all of the following information accompanies the hazardous waste while in transport, except as provided in subdivision (h):

(1) A list of the hazardous wastes being transported.

(2) The type and number of containers being used to transport each type of hazardous waste.

(3) The quantity, by weight or volume, of each type of hazardous waste being transported.

(4) The physical state, such as solid, powder, liquid, semiliquid, or gas, of each type of hazardous waste being transported.

(5) The location of the remote site where the hazardous waste is initially collected.

(6) The location of any interim site where the hazardous waste is held en route to the consolidation site.

(7) The name, address, and telephone number of the generator, and, if different, the address and telephone number of the consolidation site to which the hazardous waste is being transported.

(8) The name and telephone number of an emergency response contact, for use in the event of a spill or other release.

(9) The name of the individual or individuals who transport the hazardous waste from the remote site to the consolidation site.

(10) The date that the generator first begins to actively manage the hazardous waste at the remote site, the date that the shipment leaves the remote site where the hazardous waste is initially collected, and the date that the shipment arrives at the consolidation site.

(h) A shipping paper is not required if the total quantity of the shipment does not exceed 10 pounds of hazardous waste, except that a shipping paper is required to transport any quantity of extremely or acutely hazardous waste.

(i) All shipments conform with all applicable requirements of the United States Department of Transportation for hazardous materials shipments.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Approved _____, 2014

Governor